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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/658,975

09/10/2003

Peter R. Anderson

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3982

70648

7590

07/20/2007

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EXAMINER

D'AGOSTINO, PAUL ANTHONY

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

07/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,975

Applicant(s)

ANDERSON ET AL.

Examiner

Paul A. D'Agostino

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/10/2003 and 3/8/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-8, 10-12, and 14-17 are rejected under 35 U.S.C. 102(b) as being U.S. Patent No. 5,701,511 to Smith (Smith) of record.

In Reference to Claims 1, 6, 10 and 15

Smith discloses a gaming machine (Fig. 1 "personal computer" 10) and a method (Fig. 7 and 8) for conducting a wagering game (system and method are capable of performing this intended use; See also, "workstation coupled to a local area network or wide area network" Col. 4 Lines 42-43 wherein wagering games can be played on-line), comprising:

a memory structure (Fig. 2 "memory" 21) for storing an audio file {storing an audio file} associated with the wagering game (system and method are capable of performing this intended use; "data stored on a CD-ROM to be input to data bus 13 and thereby loaded into memory 21 for access by CPU 23" ... "sound recorded on a CD-ROM" Col. 5 Lines 1-7 and "The present invention is directed to a technique for using audio data that has been digitized and recorded on a CD-ROM." Col. 5 Lines 29-31), the audio file (Fig. 4 "audio data" 52 and Fig. 5 58) including a marker {a plurality of

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markers} (Fig. 4 "timing mark ticks" 54 and Fig. 5 74) and an audio sequence {a plurality of audio sequences interlaced between the markers}(Fig. 4 "tracks" 50 and Fig. 5 72); and

a controller (Fig. 2 "CPU" 23) operative to play the audio file {playing the audio file}(system is capable of performing this intended use), including playing the sequence {audio file, successively playing the audio sequences} and initiating a wagering game-related event {initiating game-related events} (Fig. 5 "TMSF & CMD.A) in response to detecting the {respective} marker {markers}(Col. 6 Lines 66-67 and Col. 7 Lines 1-42), the event {events} being pre-associated with the marker {pre-associated with the respective audio sequences} (Figs. 5 and 6 and "a plurality of timing and command pairs" Col. 7 Line 3).

In Reference to Claims 2, 7, 11, and 16

Smith discloses a gaming machine and method wherein the memory structure includes an association table having the marker and the event associated with the marker (Figs. 5 and 6), the controller referring to the association table to identify the event to be initiated in response to detecting the marker ("and since the two match, the CPU 23 will execute a command A in block 74". Col. 7 Lines 10-11).

In Reference to Claims 3, 8, 12, and 17

Smith discloses a gaming machine and method wherein the event is an animation ("bouncing ball" Col. 7 Lines 31-42).

In Reference to Claims 5 and 14

Smith discloses a gaming machine and method wherein the audio file is formatted as a wave (.wav) file (: "a wave file" Col. 5 Line 17), the marker being an audio cue point embedded within the wave file ("scheme embeds timing mark ticks 54 in the audio data in a track 50" Col. 6 Lines 17-18).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 9, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,701,511 to Smith (Smith) of record in view of U.S. Patent No. 5,588,096 to Sato et al. (Sato).

Smith discloses a gaming machine and method substantially equivalent to applicant's claimed invention. However, Smith fails to teach wherein the event includes an animation sequence involving movements of a character's mouth.

Sato teaches of an event including an animation sequence involving movements of a character's mouth (Fig. 9, 12-17, and 21 and of object display devices of "a person's face which is created and recorded beforehand" Col. 1 Lines 11-13) in order to change the image of an object without performing complicated key operations (Col. 1 Lines 30-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the face object as taught by Sato into the teachings of Smith in order to change the image of an object without performing complicated key operations.

Response to Arguments

5. Applicant's arguments, see Remarks, filed 2/6/2007, with respect to the rejection(s) of claim(s) 1- 8 under 35 U.S.C. §§ 102 - 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Smith and Sato.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571) 270-1992. The examiner can be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P. D'Agostino
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John Hotaling
Primary Examiner